

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ROBERT B. SIX et al.,	}	
	}	Civil Action No. 2:11-cv-00698
Plaintiffs,	}	Judge Graham
	}	Magistrate Judge Abel
	}	
-vs-	}	Answer of Defendants Donald
	}	Scott Fitch and Jonathan Jenkins
ROBERT BEEGLE et al.,	}	to the Amended Complaint
	}	
Defendants.	}	Jury Demand Endorsed Hereon

For their Answer to the Amended Complaint, Defendants Donald Scott Fitch and Jonathan Jenkins state as follows:

First Defense

1. Introduction and General Denial: Plaintiffs claim that their federally protected rights were violated during the execution of a search warrant at their residence in August 2009. The Plaintiffs' residence was the locus of a criminal investigation about the delivery through the U.S. postal system of over forty pounds of marijuana. Defendants Fitch and Jenkins each deny that they violated Plaintiffs' protected rights; and they deny harming either Plaintiff in any way.

2. To the extent the Complaint alleges deprivation of or damage to personal property from the Six residence, Defendants Fitch and Jenkins deny any such property is missing or damaged and deny for lack of knowledge that the Plaintiffs even owned or possessed such damaged or missing property.

3. Paragraphs 2-4, 6-12, 62, 131, 144, 145 and 169 of the Amended Complaint are admitted.

4. Paragraphs 1, 5, 14-16, 21, 23-26, 41-52, 61, 66, 70, 73-74, 78, 85, 86, 96, 97, 104, 105, 108, 109, 112, 113, 116-118, 120-122, 146, 161-166, 168, 170-172, 174-178 and 180 of the Amended Complaint are denied.

5. Every remaining allegation contained in the Amended Complaint is denied for lack of knowledge.

Additional Defenses

1. The Amended Complaint fails to state a claim upon which relief may be granted against Defendants Fitch and Jenkins.

2. Plaintiffs failed to name one or more indispensable parties without whom complete relief is not possible.

3. Supervening, intervening acts or omissions by third parties not under the control of either Defendant Fitch or Jenkins caused Plaintiffs' claimed injuries and damages in whole or in part.

4. Plaintiffs are barred from any equitable relief due to the application of the clean hands doctrine.

5. Plaintiffs' own actions or omissions may have caused some or all of their harm alleged in the Amended Complaint.

6. Defendants are entitled to immunity, to include but not limited to qualified immunity and/or quasi-judicial immunity. Defendants acted at all times in good faith compliance with the law.

7. The statute of limitations and/or the doctrine of laches bar Plaintiffs' claims for relief in whole or in part.

8. Claim and/or issue preclusion bar Plaintiffs' claims in whole or in part.

9. Plaintiffs have waived all or some of their claims.

10. Plaintiffs' claims are barred in whole or in part due to the immunity afforded by the Eleventh Amendment to the U.S. Constitution.

11. Plaintiffs' claims are barred to the extent they seek money damages against state employees for common law claims, as only the Ohio Court of Claims has proper jurisdiction over such claims.

12. Plaintiffs' claims are barred in whole or in part due to the application of one or more abstention doctrines, to include but no limited to the *Younger* abstention doctrine [*Younger v. Harris*, 401 U.S. 37 (1971)].

WHEREFORE, Defendants Fitch and Jenkins ask the Court to dismiss this Amended Complaint, all claims, all requests for relief, with prejudice, and tax all costs to Plaintiffs.

Respectfully submitted,

MICHAEL DEWINE
Ohio Attorney General

/s/ Randall W. Knutti
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Jury Demand

Defendants Fitch and Jenkins seek a trial by jury as to all claims for which a jury trial is available.

/s/ Randall W. Knutti
RANDALL W. KNUTTI (0022388)

Certificate of Service

I certify that a copy of the foregoing **Answer of Defendants Donald Scott Fitch and Jonathan Jenkins to the Amended Complaint** was electronically filed on September 21, 2012. Notice of this filing will be sent to counsel for all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's ECF system.

/s/ Randall W. Knutti
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